

JUL 07 2006

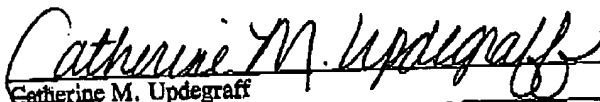
Atty. Docket No. GRA01 P418

## CERTIFICATE OF FACSIMILE

I hereby certify that this paper, together with all enclosures identified herein, are being sent via facsimile to the United States Patent and Trademark Office at 571/273-8300 (2 pgs. total), on the date indicated below.

07-07-06

Date



Catherine M. Updegraff

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 3682  
Examiner : Justin Mitchell Krause  
Applicant : David M. Mitteer  
Appln. No. : 10/629,503  
Filed : July 29, 2003  
Confirmation No. : 6730  
For : SHIFTER WITH DAMPENED PAWL MOVEMENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

RESPONSE TO ELECTION/RESTRICTION REQUIREMENT

The Office Action dated June 8, 2006 states that the present application contains claims directed to the following patentably distinct species:

Species 1: Figure 5

Species 2: Figure 8

Species 3: Figure 10

Species 4: Figure 11

According to MPEP 806.04(f), species must be mutually exclusive for a proper restriction requirement. In the present application, the pneumatic damper 47 in shift lever 3 (Figs. 8 and 9) is not mutually exclusive of the pneumatic damper in the shift knob 9, and a shifter could include both dampers if required for a particular application (page 5, paragraph [0023]). Accordingly, the election requirement is believed to be improper.

Also, MPEP 803(I) states that one of the criteria for a proper requirement for restriction between patentably distinct inventions is that "there would be a serious burden on the examiner if restriction is not required" (emphasis added). Even if the shift lever damper

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were mutually exclusive of the shift knob damper, Applicant respectfully submits that examination of both dampers would not be a "serious burden" as required by MPEP 803(I).

With respect to Fig. 1, Applicant notes that the shifter 1 may include the knob-mounted damper, the shift lever-mounted damper, or both as discussed in paragraph [0023] of the present application. Fig. 1 shows the exterior components of shifter 1, but this does not mean that shifter 1 of Fig. 1 does not include a knob and/or lever-mounted damper. Fig. 1 simply shows other parts of the shifter, not a different species.

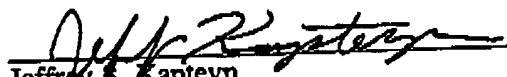
Applicant provisionally elects the knob-mounted damper shown in Figs. 2-7. Claims 1-9 are generic with respect to the position of the damper, claims 10-15 relate to the knob-mounted damper, and claims 16-23 relate to the lever-mounted damper. Applicant elects the knob-mounted damper of Figs. 2-7.

Applicant has made a concerted effort to the place the present application in condition for allowance, and a notice to this effect is earnestly solicited. In the event there are any remaining informalities, the courtesy of a telephone call to the undersigned attorney would be appreciated.

Respectfully submitted,

Date

7/7/06

  
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